

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

PAUL JONES,

Case No. 2:23-cv-01083-ART-DJA

**Plaintiff,**

## ORDER

v.

WARDEN WILLIAMS, et al.,

## Defendants.

On July 21, 2023, this Court ordered Plaintiff to either pay the full \$402 filing fee for this civil-rights action or file a fully complete application to proceed *in forma pauperis* by September 19, 2023. (ECF No. 4). Plaintiff timely filed an application to proceed *in forma pauperis*, but it is incomplete because Plaintiff did not submit a financial certificate that has been signed by a prison official and an inmate account statement for the previous six-month period with his application. (See ECF No. 5). Plaintiff also filed a “Motion for Default Judgment” that appears to seek an order granting him *in forma pauperis* status. (See ECF No. 7).

To the extent Plaintiff's motion seeks entry of default or default judgment, his requests are denied as premature. Default can be entered against a party who has failed to plead or otherwise defend against an action. Fed. R. Civ. P. 55(a). Default judgment can be entered against a party that has been defaulted if certain other requirements are met. See *id.* at 55(b). But this action is in the pre-screening stage, which means no defendant has been served with process and no defendant is currently required to defend against this action. And no defendant can be served with process, and thus be required to respond to this action, until the Court orders that to happen.

26 To the extent Plaintiff's motion seeks an extension of time to either pay the full  
27 filing fee or apply for *in forma pauperis* status, the Court grants that relief. Under 28 U.S.C.  
28 § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may

1 apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without  
 2 prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must  
 3 submit all three of the following documents to the Court:

- 4           (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this  
              Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on  
              page 3),
- 7           (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
              official (i.e. page 4 of this Court's approved form), and
- 9           (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
              **previous six-month period.**

11           If Plaintiff is having difficulty obtaining the required financial certificate and inmate  
 12 account statement for the previous six-month period from prison officials, then Plaintiff  
 13 will file the first three pages of the application to proceed *in forma pauperis* on this Court's  
 14 approved form together with a declaration detailing when he requested the documents,  
 15 who he spoke to about the status of the documents, who he followed up with after he did  
 16 not receive the documents, and their responses. Plaintiff's declaration will include dates  
 17 of his requests, dates of his follow-up requests, names of the prison officials that he spoke  
 18 to about the matter, and their responses. If Plaintiff's declaration demonstrates that he  
 19 has done all that was possible to acquire the documents from prison officials, the Court  
 20 will consider his application to proceed *in forma pauperis* complete.<sup>1</sup>

21           Accordingly, IT IS HEREBY ORDERED that Plaintiff's incomplete application to  
 22 proceed *in forma pauperis* (ECF No. 5) is denied without prejudice.

23           IT IS FURTHER ORDERED that Plaintiff's motion for default judgment (ECF No. 7)  
 24 is construed as seeking an extension of time to either pay the filing fee or apply for *in*

---

27           <sup>1</sup> Plaintiff must still submit the first three pages of the application to proceed *in*  
 28 *forma pauperis* on this Court's approved form with his declaration. If Plaintiff does not  
     submit the first three pages of the application to proceed *in forma pauperis* with the  
     declaration, the Court will recommend dismissal of this case without prejudice for Plaintiff  
     to open a new case when he is able to acquire the required documents.

*forma pauperis* status, and that narrow relief is granted. The motion (ECF No. 7) is denied in all other respects.

IT IS FURTHER ORDERED that **on or before November 2, 2023**, Plaintiff will either pay the full \$402 filing fee for a civil action or file a new fully complete application to proceed *in forma pauperis* with all three required documents: (1) a completed application to proceed *in forma pauperis* with the inmate's two signatures on page 3, (2) a financial certificate that is properly signed both by the inmate and a prison official, and (3) a copy of the inmate's prison trust fund account statement for the previous six-month period.

IT IS FURTHER ORDERED that **on or before November 2, 2023**, if Plaintiff is not able to obtain his financial certificate and inmate trust fund account statement from prison officials, Plaintiff will file the first three pages of the application to proceed *in forma pauperis* together with a declaration detailing the efforts he took to acquire the financial certificate and inmate account statement from prison officials.

IT IS FURTHER ORDERED that if Plaintiff does not either pay the full filing fee or file a fully complete application to proceed *in forma pauperis* with all three documents or, alternatively, file the first three pages of the application to proceed *in forma pauperis* and a declaration detailing the efforts he took to acquire the financial certificate and inmate account statement from prison officials, on or before **November 2, 2023**, the Court will recommend that this action be dismissed without prejudice. Dismissal without prejudice allows Plaintiff to refile his case with the Court, under a new case number, when he can either pay the required filing fee or apply to proceed *in forma pauperis*.

IT IS FURTHER ORDERED that the Clerk of the Court will resend Plaintiff Paul Jones the approved form application to proceed *in forma pauperis* for an inmate and instructions for the same and retain the complaint (ECF No. 3-1) but not file it at this time.

Dated this 3<sup>rd</sup> day of October, 2023.

**UNITED STATES MAGISTRATE JUDGE**